

G. Thomas Martin, III (SBN 218456)
PRICE LAW GROUP, APC
15760 Ventura Blvd., Suite 1100
Encino, CA 91436
Direct Dial: (818) 907-2030
Fax: (818) 205-3730
tom@plglawfirm.com
Attorneys for Plaintiff,
SAMUEL FRANCIS

FILED

MAY 29 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SAMUEL FRANCIS,
Plaintiff,

vs.

DIVERSIFIED COLLECTION
SERVICES, INC.; and DOES 1 to 10,
inclusive,

Defendants.

Civil Case No.:

C12-02720

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

DMR

COMPLAINT AND DEMAND FOR JURY TRIAL

INTRODUCTION

1. This is an action for actual and statutory damages brought by plaintiff Samuel Francis an individual consumer, against defendant Diversified Collection Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") and the Rosenthal Fair Debt Collection Practices Act,

1 Cal. Civ. Code §§ 1788 *et seq.* (hereinafter "RFDCPA"), which prohibit debt
2 collectors from engaging in abusive, deceptive, and unfair practices.
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5 **JURISDICTION**

6 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ. Code §§
7 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is proper in that
8 the Defendant transacts business here and the conduct complained of occurred
9 here.
10

11 **PARTIES**

12
13 3. Plaintiff, Samuel Francis is a consumer, a natural person allegedly obligated to
14 pay any debt, residing in the state of Florida.
15

16 4. Defendant, Diversified Collection Services, Inc. is a corporation engaged in the
17 business of collecting debt in this state with its principal place of business located
18 in Alameda County at 333 North Canyons Parkway, Suite 100, Livermore,
19 California 94551. The principal purpose of Defendant is the collection of debts in
20 this state and Defendant regularly attempts to collect debts alleged to be due
21 another.
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24 5. Defendant is engaged in the collection of debts from consumers using the mail
25 and telephone. Defendant regularly attempts to collect consumer debts alleged to
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1 be due to another. Defendant is a "debt collector" as defined by the FDCPA, 15
2 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.

3 **FACTUAL ALLEGATIONS**

4
5 6. Upon information and belief, within one year prior to the filing of this
6 complaint, Defendant placed collection calls to Plaintiff, seeking and demanding
7 payment for an alleged consumer debt owed under an account number.
8

9 7. The debt that Defendant is attempting to collect on is an alleged obligation of a
10 consumer to pay money arising out of a transaction in which the money, property,
11 insurance or services which are the subject of the transaction are primarily for
12 personal, family, or household purposes, whether or not such obligation has been
13 reduced to judgment.
14

15
16 8. Upon information and belief, Defendant began contacting Plaintiff and placing
17 collection calls to Plaintiff prior to May 16, 2012.

18
19 9. Upon information and belief, within one year of the filing of this complaint,
20 threatened to garnish Plaintiff's wages itself and to intercept Plaintiff's tax returns
21 itself, when it cannot do so.
22

23 10. As a result of the acts alleged above, Plaintiff suffered emotional distress
24 resulting in Plaintiff feeling stressed, amongst other negative emotions.
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FIRST CLAIM FOR RELIEF

11. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

12. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

(a) Defendant violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt; and

(b) Defendant violated §1692e(10) of the FDCPA by using false, deceptive, or misleading representation or means in connection with the collection of Plaintiff's alleged debt; and

(c) Defendant violated §1692e(2)(B) of the FDCPA by falsely representing the services rendered or compensation which may be lawfully received by the Defendant for the collection of the alleged debt; and

(d) Defendant violated §1692e(5) of the FDCPA by threatening to take action that it did not intend to take.

13. As a result of the foregoing violations of the FDCPA, Defendant is liable to the plaintiff Samuel Francis for actual damages, statutory damages, and costs and attorney fees.

SECOND CLAIM FOR RELIEF

14. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

15. Defendant violated the RFDCPA. Defendant's violations include, but are not limited to the following:

(a) Defendant violated §1788.17 of the RFDCPA by being a debt collector collecting or attempting to collect a consumer debt that is not compliant with the provisions of Sections 1692b to 1692j of the FDCPA, the references to federal codes in this section referring to those codes as they read as of January 1, 2001.

16. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

17. As a result of the foregoing violations of the RFDCPA, Defendant is liable to the plaintiff Samuel Francis for actual damages, statutory damages, and costs and attorney fees.

WHEREFORE, Plaintiff Samuel Francis respectfully requests that judgment be entered against defendant Diversified Collection Services, Inc. for the following:

A. Actual damages.

B. Statutory damages pursuant to 15 U.S.C. § 1692k.

1 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.

2 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and
3 Cal. Civ. Code § 1788.30.
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5 E. For such other and further relief as the Court may deem just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Please take notice that plaintiff Samuel Francis demands trial by jury in this
8
9 action.

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11 RESPECTFULLY SUBMITTED,
12 PRICE LAW GROUP APC

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15 DATED: May 21, 2012

16 By: _____



17 G. Thomas Martin, III
18 Attorney for Plaintiff
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